will be decided) and those system designs that cannot protect the challenged MDS station cannot be proposed. Further, during that delay, the wireless cable operator is left sitting with a sizeable investment in equipment and leases, as well as salary obligations, but with no means to generate the cash to recoup such investments and to pay such costs.

Ultimately, standards for disposing of these controversies must be decided and, as the Notice recognizes, the existing adjacent channel interference analysis procedures will be used to decide those controversies.[19] Thus, the Commission's staff still must be able to perform such an analysis and many MDS applications will have ITFS stations within close enough proximity--usually 65 miles--that they will need to perform such an analysis to assure themselves that their proposed MDS stations can be licensed. Such analyses often depend upon terrain profiles or other factors to prove non-interference. If we were applicants, we would prefer that the Commission review our adjacent channel interference analyses prior to licensing so that we could know what the ultimate arbiter of the interference issue has decided on the issue, rather than place stations on the air and then ask the Commission whether it agrees with our analyses. If we must perform that analysis in advance, it takes little more to extend it to cochannel operations. It takes little of the Commission's staff to

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[19] See proposed Rule 21.902(c)(iv).

review cochannel MDS interference analyses. Discrete receiver sites are not an issue and a computer program can perform that analysis. Given that continued need in most cases to perform the now required analysis, and the ease with which the Commission can audit a cochannel or adjacent channel analysis by computer, we see no offsetting benefit to shifting to mileage separations, and wrecking the hopes and investments of thousands of entrepreneurs and investors by dismissing their applications.

3. Protecting All ITFS Receiver Sites Registered at the Time the MDS Station Is Licensed.

This proposal would extend the MDS licensee's duty to protect ITFS receivers from those receivers in existence when the MDS licensee files its application to those in existence whenever that application is granted.

The proposal is unworkable. It unduly prefers ITFS systems by allowing them to extend receiver sites into areas where they will receive interference from pending MDS station proposals. Thus, a planned MDS system could be rendered inoperable. ITFS licensees should not enjoy such an advantage, which advantage could easily be used offensively by a wireless cable operator who controls its ITFS station lessors to ensure that the E, F and H-group MDS channels cannot be licensed at points far distant from the wireless cable operator's transmitter site. Currently, as

explained above, ITFS applications are being amended to propose distant receiver sites just for the purpose of blocking proposed ITFS stations that would be used in part to support competitive wireless cable activity. It would be unwise for the Commission to promulgate a rule that would allow ITFS licensees to take the same abusive action against MDS hopefuls.

4. Proposal to Ban Settlements.

This is the one proposal in the Notice that effectively addresses the problem. Proposals simply to reduce the number of applications per se are not helpful to the industry; all in the industry need to file applications to operate. Rather, the Commission should focus upon reducing the number of speculative applications. The ability of applicants to form settlement groups is the basis by which the filing mills are able to sell a multiplicity of applications for a single MDS license. Banning settlements altogether would virtually eliminate the filing mill.

The filing mills operate by comparing MMDS to cellular mobile telephone. They use various forms of advertising to reach potential applicants. They tell these potential applicants of the riches people made through cellular applications entered into settlement groups. Those people who agree to file applications do not even know for what markets the applications are filed until after the filings. All they know is that they will be filed for

the number of markets as contracted, and that up to an agreed number of applications will be mutually-exclusive with their applications. They also understand that a settlement group will be formed, that they will be invited to participate in the settlement group, and that their minor equity interest in the settlement group will be worth an amazing amount of money compared to their original investment. "Just like cellular."

Without the settlement group option, the filing mills cannot weave their scheme of deception that results in so many MMDS and, recently, MDS applications.

The Notice, however, does not go far enough. All settlements must be banned. As written, proposed Rule 21.33(d) would have no affect upon settlements involving numerous applications for the same facility authorization prepared by one filing mill and filed in an orchestrated manner so that all applications arrive in Pittsburgh on the same day and, thus, are mutually-exclusive. Such schemes burden the Commission with Rule 21.29 filings and serve only to line the pockets of filing mills at the expense of hapless applicants.

In that vein, no partial settlement should be tolerated, even a partial settlement that results, as proposed in the Notice, in the settling applicants being treated as if they had filed only 1 application. Otherwise, dishonest filing mills (please excuse

the redundancy) will still put applications in partial settlements without telling their clients the results of doing so and, thus, needlessly burdening the Commission with paperwork.

Finally, the one-day cut-off scheme should be given its full effect by taking steps to prevent applicants from filing multiple applications for the same frequencies. We suggest that the Form 494 be amended to include a statement and certification to the effect that the applicant knows that it is a violation of Commission policy to knowingly file a MDS application that is mutually-exclusive with one or more other MDS applications and that the Commission will presume such filings were knowingly made by the involved applicants. Further, the statement should state that the knowledge of the applicant's consultants and agents is imputed to the applicant. Finally, the form should contain a separate execution space preceded by a certification that the application is not knowingly mutually-exclusive with any other application. This change to the application form will erect contract breach suits against filing mills who continue to file mutually-exclusive applications, thus offering a further deterrent to that practice.

5. Application Form Simplification.

We support the proposal as stated.

6. One Licensee Per RSA or MSA.

This proposal worked well for cellular mobile radio because it was imposed before applications were received for filing. At this juncture, the proposal is too late. Presently, E and F-group MDS licenses are limited so that only one set of those frequencies is assigned in a MSA, as defined by the Commerce Department in 1983. That restriction does not apply to the remainder of the country--being all areas outside of MSAs as defined in 1983. As a consequence, applications for MDS licenses have been sought and awarded in manners that would violate the proposal.

It is important for the Commission to recognize that it cannot turn back the hands of time to the time when there were no applications for MMDS licenses on file. To do so is to destroy the hopes, efforts, investments and expectations of thousands of people. That does not help wireless cable reach its full potential. We do not have a 1 to a RSA rule at present and, because to impose one would be so detrimental to so many people, there is no reason to impose such a rule. Again, the Commission must keep in mind that radical changes to MDS rules that destroy plans and de-value investments hurt the industry as a whole.

C. Our Proposals for Rule Changes.

In our position as observers and participants in the

industry, we are able to see problems that the Commission apparently does not see and to recommend changes.

We request only one additional change. While we know of other aspects of MDS regulation that could be improved, we will offer only only change for sake of simplicity and so as not to diminish the importance of the change by grouping it with other proposed changes.

That change is a return to the old aggressiveness with which the Commission pursued those who abuse its processes. Such abuse is rampant in the ITFS. The primary offender is RuralVision, and its offenses are described, in part, in the pleading attached to these comments.

Many of us have asked you for some time to do something about RuralVision and the havoc it is causing. Yet, for some reason, our pleas have fallen upon deaf ears. You cannot hope to run an efficient and goal serving application processing line while people are free to abuse your processes. If abuses occur and you tolerate them, you encourage further and more bold abuse and, with it, the further deterioration of your ability to do your job. If you really want to help the wireless cable industry, then stop RuralVision and those who practice process abuse as a means to enrichment.

III. CONCLUSION

WHEREFOR, Fletcher, Heald & Hildreth respectfully requests the Commission to consider the foregoing statements in its further deliberations on the proposals made in the above-captioned Notice.

Respectfully submitted,

FLETCHER, HEALD & HILDRETH

By: _____
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June 29, 1992

TJD/PPM/WIRELESS

ATTACHMENT

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In re Application of	)	
	)	
RURALVISION CENTRAL, INC.	)	
	)	File No. 52030-CM-P-92
For a Conditional License	)	
for a New MDS Channel 1	)	
Station at Sikeston, MO	)	

Directed To: The Chief, Domestic Radio Branch,
Domestic Facilities Division,
Common Carrier Bureau

REPLY TO OPPOSITION TO
PETITION TO DISMISS OR DENY, ET AL.

Thomas J. Dougherty, Jr.

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June 3, 1992

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SUMMARY

RuralVision Central, Inc. ("RuralVision") disputes the claim of BCW Systems, Inc. ("BCW") that RuralVision's subject application does not show 45 Db protection to BCW's Malden, MO MDS Channel 1 licensed facility. It does not show that protection, as admitted by the application itself.

RuralVision also claims that its proposal to frequency offset BCW's station allows the two stations to coexist. The burden of showing that frequency offset will make up for required protection deficiencies is on the proponent--RuralVision--and the proponent has not even identified the transmitter for BCW's station. Further, RuralVision has not filed an application to involuntarily modify BCW's station. Accordingly, RuralVision's frequency offset proposal is inadequate and its proposed station is deemed to cause harmful interference to BCW's licensed facility.

For that reason, BCW has standing to protest RuralVision's application, contrary to RuralVision's argument.

In the petition, BCW demonstrated that RuralVision lacks the character the Commission requires of its licensee. One set of facts showing its lack of character is its addition of proposed receive sites to ITFS applications simply to block BCW's ITFS plans. RuralVision, while denying that charge, has presented no facts to the contrary. Moreover, its arguments against BCW's charge are so wanting in substance as to suggest support for BCW's charge.

Another set of facts showing RuralVision's lack of character is the filing by it of amendments to others' ITFS applications, apparently with the signature, knowledge or consent of the applicants. RuralVision claims no wrong doing; however, it presents no evidence that any of the amendments were signed by the applicants or that the applicants were aware of or consented to the amendments. Having the opportunity to present that evidence, but deciding not to present it, the Commission should draw the inference that such evidence would be adverse to RuralVision.

In disputing BCW's petition, RuralVision relies upon a sworn declaration of its Mr. Johnson which contains statements which are false or which evince a lack of candor. Thus, while RuralVision's character qualifications were suspect at best when BCW filed its petition, RuralVision's opposition has confirmed the character charges against RuralVision.

Finally, there is the pending indictment of Mr. Larry Hudson, the sole shareholder of RuralVision. That indictment, alone, should cause the Commission to withhold action on all RuralVision applications that are grantable but for character problems. If Mr. Hudson is found guilty of the alleged crimes of Federal perjury, then RuralVision's applications cannot be granted.

While that indictment is bad enough, RuralVision has again insulted the Commission by reporting to the Commission that it has placed its capital stock in a "blind trust" insulated from Mr. Hudson. RuralVision's efforts to convince the Commission that the trust is "blind" and will actually function apart from Mr. Hudson's influence again demonstrate that RuralVision cannot be trusted to be honest in its representations to the Commission.

108/summary

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In re Application of	)	
	)	
RURALVISION CENTRAL, INC.	)	
	)	File No. 52030-CM-P-92
For a Conditional License	)	
for a New MDS Channel 1	)	
Station at Sikeston, MO	)	

Directed To: The Chief, Domestic Radio Branch,
Domestic Facilities Division,
Common Carrier Bureau

REPLY TO OPPOSITION TO
PETITION TO DISMISS OR DENY, ET AL.

BCW SYSTEMS, INC. ("BCW"), by its counsel, hereby replies to the opposition (the "Opposition") filed on May 14, 1992 by RuralVision Central, Inc. ("RuralVision") against BCW's March 19, 1992 petition to dismiss or deny (the "Petition") the above-captioned application of RuralVision and BCW's other related pleadings.[1] In response thereto, the following is respectfully submitted:

I. RURALVISION'S APPLICATION IS NOT ACCEPTABLE FOR FILING

The Petition urges the denial of the above-captioned application because it proposes a facility that, admittedly, will not provide 45 Db protection to BCW's then cut-off and now granted application for a cochannel station at Malden, MO.[2]

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[1] BCW also filed an informal complaint with the Common Carrier Bureau's Enforcement Division and a request to institute a Section 403 inquiry with the Mass Media Bureau's Enforcement Division.

[2] WMI918 (File No. 51872-CM-P-91).

Surprisingly, the Opposition claims that the above-captioned application contains a 45 Db interference study."[3] It does not contain such a study. Rather, the application states that the desired to undesired ratio in BCW's MDS Channel 1 service area is as low as 33dB.[4]

Further, the Opposition states that it is up to the Commission to decide whether RuralVision's proffer of a frequency offset plan meets the Commission's interference standard requirements. While the Commission has stated that it will review proffers of frequency offset transmitters for that purpose,[5] RuralVision's application contains no such proffer. First, in that regard, RuralVision offers in its application to modify BCW's transmitter and the transmitter of another cochannel licensee without specifying what transmitter would be employed.[6] Thus, there is, to quote the Commission, no "proffer of transmitters...."[7] Second, as RuralVision's proposal is to modify BCW's license and the license of a cochannel station, RuralVision must first file such modification applications, and then BCW and the other cochannel licensee must be given their rights under Rule 21.905(c) to notice and an opportunity to be

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[3] Opposition, at 3-4.

[4] Application, Ex. E, at 3.

[5] Wireless Cable Service (Reconsideration), 69 R.R.2d 1477, 1485 (para. 30)(1991).

[6] Application, Ex. E, at 4.

[7] 69 R.R.2d at 1485.

heard as to why such involuntary modifications should not be effected. Those actions must precede favorable action on RuralVision's application. Quite simply, it makes no sense to grant RuralVision's application absent a prior determination, after the required notice and opportunity for a hearing, that frequency offset will work in this instance. But, the Commission cannot get that far in considering RuralVision's frequency offset request because RuralVision has not presented an offset plan that can be evaluated. Accordingly, its application can be judged only under the 45 Db standard and must be dismissed for failing to meet that standard.

II. RURALVISION'S APPLICATION DEMONSTRATES INTERFERENCE.

The Opposition also argues that BCW has not made a prima facie showing that RuralVision's proposed station will cause objectionable interference to BCW's stations. RuralVision's application has made that demonstration for BCW. Under Rule 21.902(f)(1), harmful interference is considered present when the predicted ratio of desired to undesired signal is less than 45 Db. RuralVision's application states quite clearly that its proposal will result in a desired to undesired signal ratio of 33 Db. RuralVision states that it will make up the difference by frequency offsetting BCW's transmitter. However, the burden of showing that frequency offset will make up that difference is on RuralVision. Having not even identified the proposed transmitter for BCW (let alone providing field

studies), RuralVision has not met its burden. Accordingly, BCW has presented a prima facie case of harmful interference, albeit through reference to RuralVision's own engineering.[8]

III. RURALVISION LACKS THE CHARACTER REQUIRED OF FCC LICENSEES.

In the Petition, BCW demonstrated that RuralVision is the real-party-in-interest behind ITFS applications and facilities, and that RuralVision has purposely subverted the Commission's licensing process by (i) preparing and filing amendments to others' ITFS applications, which amendments were unknown to the applicants; and (ii) proposing in those amendments receiver sites that are of no benefit to the applicant/schools and that only serve to block newcomers from obtaining ITFS construction permits. BCW brought those facts to the Commission's attention to show that RuralVision lacks the qualifications the Commission requires--and needs--of its licensees.

The Opposition, rather than offering evidence against those allegations, tends to indirectly prove BCW's charges of

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[8] The Opposition, at 4, also states that BCW should have described the number and location of receive sites that would receive interference so that RuralVision could modify its station to protect those sites. That is ludicrous. BCW received with the grant of its Channel 1 application a protected service area having a 15 mile radius, not merely the protection of discrete receive sites. If RuralVision cannot protect any part of that area (no matter how small), then RuralVision cannot receive a license.

misconduct and to further demonstrate RuralVision's lack of character qualifications.

Regarding RuralVision's repeated filing of ITFS application amendments without the applicant's knowledge or signature, all RuralVision states is that (i) the school/applicants, not RuralVision, sign ITFS application amendments; (ii) that, if 5 application amendments were not signed by the schools, that was unintentional; and (iii) that RuralVision is still looking for the versions of those 5 amendments that were signed by the school/applicants. Declaration of Mr. Johnson, at 10.

RuralVision's explanation of the amendments does no more than beg the question. The statement that applicant/schools, not RuralVision, sign amendments is irrelevant. The idea that 5 amendments could be accidently submitted by counsel without the signature of the applicants is ludicrous. Thus, all that remains is RuralVision's third argument that it obtained signatures to the amendments but cannot find them. But, if the school/applicants did sign those amendments, then would not at least one of the five schools have a copy of the amendment it signed? The issue of the lack of the applicants' signatures to amendments being squarely raised in BCW's Petition, why does RuralVision rely upon merely the statement of Mr. Johnson? The strongest evidence against BCW's charge of application usurpation would be declarations of the responsible administrators of the school/applicants that they

signed the amendments and were aware of the contents of the amendments. Obviously, that type of evidence is within RuralVision's power to obtain, especially in the extended time RuralVision sought to file its Opposition.[9] RuralVision's failure to present that direct and most probative evidence requires the presumption that, if RuralVision had presented that evidence, it would have been adverse to RuralVision.[10]

In that regard, perhaps most provocative is what RuralVision does not say. RuralVision, while strenuously arguing that it engaged in no wrong doing, does not say that the school/applicants had knowledge of the Paragould application receiver site amendments.

All RuralVision provides is the word of Mr. Johnson. But, as shown in the Petition and as has been shown elsewhere and as will be shown again below, Mr. Johnson's word is not reliable.

The most relevant example of Mr. Johnson's unreliability derives from his answer, delivered in response to BCW's charge that RuralVision amended its school/applicant's applications to block newcomers, that "RuralVision never knew that BCW intended to build a competing ITFS system." Declaration of Mr. Johnson, at para. 6.

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[9] BCW's Petition was filed on March 19, 1992. RuralVision's Opposition was filed on May 14, 1992, which date is almost 2 months after the filing date of BCW's Petition.

[10] See,e.g., Knightbridge Marketing v. Promociones Y Proyectos, 728 F.2d 572, 575 (1st Cir. 1984)(citing cases and 2 Wigmore on Evidence Section 291, at 228); Brown v. Cedar Rapids and Iowa City Ry. Co., 650 F.2d 159, 162 n.3 (8th Cir. 1981).

That statement is false. Attached hereto as Attachment I is the declaration of Dr. Ewing, the Superintendent of Kennett Public Schools. In that declaration, Mr. Ewing states that he wrote Mr. Johnson a letter dated October 15, 1991[11] in which he told Mr. Johnson:

> "[w]e have been approached by another company who is attempting to obtain the appropriate FCC licensing. We are one of five school districts in southeast Missouri and northwest Arkansas that have been contacted by this company to assist them in obtaining the FCC licensing. Our attorneys have reviewed their tendered agreement...."

One day later, October 16, 1991, Dr. Ewing spoke to Mr. Johnson by telephone and told Mr. Johnson that Kennett Public Schools "were pursuing plans for our own ITFS system and [Mr. Johnson] responded by asking whether we were working with `that outfit out of Malden' to which I responded `yes.'" Declaration of Dr. Ewing, at para. 5. Dr. Ewing's declaration continues by stating that "Mr. Johnson told me that RuralVision had BCW Systems surrounded on the West, the Northeast and the Southeast and that it would be better for our school system to go along with RuralVision. Thus, RuralVision had knowledge that we were in negotiations with BCW Systems for the establishment of an ITFS station." Id.

The letter to Mr. Johnson and the telephone call with Mr. Johnson were of October 15 and 16, 1991, respectively. Thus,

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[11] A copy of that letter is attached to Dr. Ewing's declaration.

Mr. Johnson and RuralVision knew by those dates that BCW was attempting to establish ITFS stations operating in the Malden, MO area on all 5 ITFS channel groups. More than a month later, RuralVision amended the Paragould ITFS applications to more than triple the proposed receiver sites and to list Kennett Public Schools and other school systems working with BCW as receiver sites. Moreover, as explained in the following paragraphs, Mr. Johnson and RuralVision knew of BCW's plans to establish a wireless cable system as early as August of 1991.

A further example of Mr. Johnson's liberality with the truth appears in paragraph 6 of his declaration where he swears that BCW "initially" expressed "an interest in working with us...." Attached hereto as Attachment II is the declaration of Mr. Pickney, the President of BCW, which swears that the contrary is true. Thus, Mr. Pickney told Mr. Johnson in August of 1991 that BCW had no interest in working with RuralVision and that BCW and RuralVision would be competitors.

Obviously, Mr. Johnson's and Mr. Pickney's recollections are exactly opposite. Who, then, is telling the truth? Given what has been revealed about Mr. Johnson's other statements under oath to the Commission, the Commission could easily determine that anything Mr. Johnson states should be discounted. But, without even considering that evidence, plain common sense tells the reader that Mr. Johnson is not telling the truth. Mr. Johnson's declaration states that, after that first telephone conversation, "the President of BCW never returned our

follow-up calls." Declaration of Mr. Johnson, at para. 8. That refusal to speak to Mr. Johnson is inconsistent with Mr. Johnson's allegation that BCW originally expressed an interest in working with RuralVision. It is consistent with Mr. Pickney's sworn recollection that he told Mr. Johnson to go away the first time they spoke. Why take a telephone call, express interest in working with the calling party and then refuse to speak to the calling party? It just does not make sense.

RuralVision's arrogant disrespect for the Commission is manifest once again on page 9 of the Opposition where RuralVision displays a lack of candor by suggesting that Kennett Public Schools "expressed an interest in receiving service from a RuralVision managed ITFS system...." As stated in the declaration of Dr. Ewing of Kennett Public Schools attached hereto as Attachment I, Kennett Public Schools never expressed any interest in receiving ITFS programming from a RuralVision managed ITFS system. Rather, Mr. Ewing told Mr. Johnson that Kennett Public Schools were considering various options for the receipt of educational programming, including "Channel One" and BCW's ITFS proposal.[12]

Notably, that is not the first time that Mr. Johnson, on behalf of RuralVision, has presented the Commission with his sworn declaration that schools asked to be RuralVision receiver sites when those schools vehemently deny that they ever agreed to

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[12] Declaration of Mr. Ewing, at para. 4.

serving as receiver sites. In the Bloom Center, OH ITFS proceeding, Mr. Johnson submitted a declaration stating he obtained the oral agreement of various schools to serve as ITFS receiver sites.[13] In fact, the Bloom Center Reply contains the declarations of numerous school officials swearing that they never formed any agreement with Mr. Johnson or RuralVision.[14]

RuralVision goes over board in its effort to argue that the receiver sites added by it to the Paragould ITFS applications were not added with the intent to block BCW's ITFS plans. First RuralVision continues its display of disrespect for the Commission by submitting as Exhibit Two to the Opposition a list prepared by it purporting to show that every unaffiliated school listed as a receiver site was contacted. What RuralVision does not highlight is that its exhibit shows that letters concerning the naming of schools as receiver sites were not mailed to the schools until February 20, 1992, which date is 3 months after the Paragould ITFS permit applications were amended to more than triple the number of specified receiver sites.

RuralVision again compounds its difficulties by citing

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[13] Reply to Opposition to Petition to Deny, filed by St. Marys City Schools, Lima City Schools and W.A.T.C.H. TV Company on February 21, 1992 concerning the ITFS applications of Graham Local School District, et al. (File Nos. BPLIF-910611DC, 910509DA, DB, DC and DJ)(hereinafter, the "Bloom Center Reply").

[14] Bloom Center Reply, at 8-17. The declarations of school officials are attached to that pleading.

the Second Report and Order[15] and stating that "[t]he FCC requires ITFS applicants to add receive sites to justify use of the channels, and to merit interference protection." Opposition, at 7 (emphasis supplied). That is quite disingenuous. The Commission has licensed numerous point-to-point ITFS stations; that is, stations with one receiver site. There is no minimum number of receivers that must be proposed in an ITFS application for it to be granted. If RuralVision is concerned about interference protection, that concern was eliminated by the Order on Reconsideration in the wireless cable docket--that being the Order RuralVision cites and explains in detail on each of the first 4 pages of the Opposition. The Order on Reconsideration states that ITFS stations can have, through minor modification,[16] protected service areas for wireless cable reception equivalent to the protected service area available to a similarly engineered MDS station.[17] That Order was released almost a month before RuralVision filed the receiver site

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[15] Instructional Television Fixed Service, 58 R.R.2d 559, 590 (1985).

[16] In the case of pending applications, and the Paragould applications were pending at that time, a protected service area can be obtained through minor amendment.

[17] Wireless Cable Service (Reconsideration), supra, at 1482. In that Order, the Commission also stated that it will grant omnidirectional antenna authorizations to ITFS stations just to provide wireless cable service. Id. at 1482 n.11.

amendments to the Paragould ITFS applications.[18]

In sum, there is, contrary to RuralVision's argument, no requirement of the FCC to "add" that multiplicity of phantom receiver sites. The Paragould applications were grantable as proposed and the protection of RuralVision's wireless cable reception would be granted by merely the filing of minor amendments requesting that protection. Instead, RuralVision decided to amend the Paragould applications to list 18 new receiver sites with an average distance of 32.56 miles from the transmitter![19] RuralVision had no indication from Kennett Public Schools that those schools desired any relationship with RuralVision and, in fact, RuralVision was told that Kennett was not able to make any commitment. Nonetheless, RuralVision knew that Kennett was a BCW potential client and that BCW intended to become the ITFS excess capacity lessee in Malden. RuralVision, armed with that knowledge, amended five ITFS applications without the knowledge of the applicants to add receiver sites--including Kennett sites--to block BCW's efforts to assist educators in and around Malden in establishing ITFS stations. As stated in BCW's Petition, the Commission does not condone that conduct, it abhors

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[18] That Order was adopted on September 26 and released on October 25, 1991. RuralVision filed the receiver site addition amendments of November 21, 1991.

[19] That average distance was developed mathematically from the amendments.